



TPW

DOCKET NO.: VIA-002-PAP

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Shen, et al.

Office Action Confirmation No.: 3636

Serial No.: 10/618,079

Group Art Unit: 2617

Filed: July 10, 2003

Examiner: Miller, Brandon J.

For: Method and Apparatus Estimating Cell Interference and Noise
for CDMA Packet Data Channels

In accordance with 37 C.F.R. 1.8, I hereby certify that this correspondence and all its attachments are being deposited on Wednesday, June 18, 2008, with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Barbara S. Kelly

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

COMMENTS ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE
TRANSMITTAL LETTER

Transmitted herewith is are Comments on Examiner's Statement or Reasons for Allowance (in 3 pages) in response to a statement of reasons for the indication of allowable subject matter set forth in an Office Action issued March 26, 2008 in respect of the above-identified application.

The Commissioner is hereby authorized to charge any additional filing fees required under 37 CFR 1.16 including fees for presentation of extra claims, and any additional patent application processing fees under 37 CFR 1.17 or under 37 CFR 1.20(d). Please charge any deficiency or credit any overpayment to Deposit Account No 50-0490.

Date: 6-18-2008
June 18, 2008

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VIA-002-PAP
Appln. No. 10/618,079

Submission Date: June 18, 2008
Comments on Allowability Statement of March 26, 2008



In re application of: **Shen, et al.** Confirmation No.: **3636**
Serial No.: **10/618,079** Group Art Unit: **2617**
Filed: **July 10, 2003** Examiner: **Miller, Brandon J.**

For: **Method and Apparatus Estimating Cell
Interference and Noise for CDMA Packet Data Channels**

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Barbara Kelly Date

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

COMMENTS ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

Dear Sir:

This supplemental paper provides Comments in respect of a statement of reasons for the indication of allowable subject matter set forth by the Examiner in an Office Action issued March 26, 2008 ("the March 26 Office Action"). Please consider the comments on the Examiner's Statement of Reasons, as set forth below.

Remarks begin on page 2 of this paper.

COMMENTS ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

For the record, the remarks set forth below clarify the Applicant's understanding of certain aspects of the Examiner's Statement of Reasons for Allowance set forth in section II of the Office Action issued March 26, 2008 ("the March 26 Office Action," beginning on page 2).

The application was amended by a paper mailed to the USPTO by the Applicants on May 2, 2008, which addressed clarity issues raised by the Examiner in the March 26 Office Action. The Examiner based his Statement of Reasons for Allowance on the text of the claims that were pending before the Applicant responded to the March 26 Office Action. This implies that the Examiner did not expect the claims to change substantively, and the Applicants agree that the claims as presently pending are unchanged in scope from those on file prior to the March 26 Office Action.

In section II of the March 26 Office Action at line 3, the Examiner's Statement of Reasons appears to include a typographical error in which "a method for" precedes "a system for" communicating data signals. For the record, the Applicants note that the phrase "a method for" is believed to be unintended and should not be construed as in any way limiting on the scope of Claim 1.

In respect of each of Claims 1 and 14, the Examiner describes a mobile unit "with a structure as defined in the specification (pages 7-14)." The Examiner may have cited such structure to indicate that the invention is adequately possessed and enabled, but it is respectfully submitted that the structure indicated by the Examiner should not be construed as limiting on Claims 1 or 14. The Applicants set forth exemplary structure in said pages and elsewhere in the specification, and the specification also includes substantial structure incorporated by reference. All such structure, and all equivalents to such structure, is covered by corresponding means plus function elements recited in either Claim 1 or Claim 14. In respects other than express means plus function elements, the structure set forth in the Applicants' specification or incorporated by reference is properly considered merely exemplary, and is not to be construed as generally limiting at all.

In respect of Claim 27 the Examiner describes a cellular network "with steps as defined in the specification (pages 7-14)." The Applicants respectfully submit that the steps disclosed by the subject application are not limited to those set forth in pages 7-14, but includes steps described elsewhere, including in material incorporated in the specification by reference. In any event the disclosed steps, some of which the Examiner may have identified to indicate adequate enablement and possession of the invention, are exemplary in nature and are not to be construed as limiting on the scope of Claim 27.

In respect of Claim 40 the Examiner describes a cellular network "with structure as defined in the specification (pages 7-14)." The Applicants respectfully submit that the structure disclosed by the subject application is not limited to that set forth in pages 7-14, but includes structure described elsewhere in the specification and in material incorporated in the specification by reference. In any event the disclosed structure, some of which the Examiner may have identified to indicate adequate enablement and possession of the invention, is exemplary in nature and is not to be construed as limiting on the scope of Claim 40.

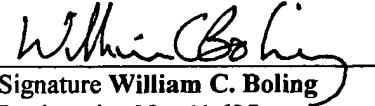
Conclusion

The remarks set forth above address the Examiner's Statement of Reasons for Allowance. It is assumed that the Examiner did not rely upon any limitation of claim scope that could be construed as implied by the phrases "... as defined in the specification (pages 7-14)." In any event, the remarks above clarify that the Applicants do not concede any such limitation on the scope of the claims. With such caveat, the Applicants look forward to receiving a Notice of Allowance in respect of all pending claims.

The Commissioner is authorized to construe this paper as including a petition to extend the period for response by the number of months necessary to make this paper timely filed. Fees or deficiencies required to cause the response to be complete and timely filed may be charged, and any overpayments should be credited, to our Deposit Account No. 50-0490.

Respectfully submitted,

Date: 6-18-2008
June 18, 2008


Signature William C. Boling
Registration No. 41,625

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